

Notice of Allowability

Application No.

10/665,903

Applicant(s)

TRAINOFF, STEVEN P.

Examiner

Art Unit

Juan C. Ochoa

2123

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/28/07.
2. ☒ The allowed claim(s) is/are 19-30.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

DETAILED ACTION

1. The amendment filed 11/28/07 has been received and considered. Claims 1–10 and 18 had been cancelled. Claims 11-17 have been cancelled. Claims 19–30 are pending and presented for examination.

Examiner's Amendment

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Mr. Villalpando on 1/17/2008.

4. The application has been amended as follows:

5. Claim 19, line 7, immediately after the term "sample", the following has been inserted -- of uniform composition --.

6. Claim 19 line 9, the term "of said sample" has been deleted.

7. Claim 19, line 9, the term "uniform composition" has been replaced with the word – said sample --.

Allowable Subject Matter

8. Claims 19–30 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

10. While Shortt, U.S. Patent 5,528,366, discloses a method to determine the best fit parameters (see col. 9, lines 54–56) in a chromatographic separation containing a separation device (see col. 2, lines 15–20),

Janik et al., U.S. Patent 5,676,830, discloses determining the best-fit parameters of a broadening model to be used to correct for the effects of band broadening (see col. 3, lines 55–59),

and Trainoff et al., U.S. Patent 6,651,009, discloses that by integrating across the peaks, the dependence on the peak shape is eliminated, and the band broadening correction reduces to a single parameter (see col. 4, lines 19–22),

11. None of these references taken either alone or in combination disclose a method to determine the best fit parameters of a broadening model specifically including: the $\chi^2_i(\beta_i, \tau_i, \alpha_{ij})$ expression in claim 19 in combination with the remaining elements and features of the claimed invention. Also, there is no motivation to combine none of these references to meet these limitations. It is for these reasons that applicant's invention defines over the prior art of record.

12. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

13. Applicant's arguments filed 11/28/07 have been fully considered, and they are persuasive.

14. Regarding the specification objections, the amendment corrected all deficiencies and the objections are withdrawn.

15. Regarding the claim objections, the amendment corrected all deficiencies and the objections are withdrawn.

16. Regarding the rejections under 112, the amendment corrected all deficiencies and the rejections are withdrawn.

Conclusion

17. Examiner would like to point out that any reference to specific figures, columns and lines should not be considered limiting in any way, the entire reference is considered to provide disclosure relating to the claimed invention.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juan C. Ochoa whose telephone number is (571) 272-2625. The examiner can normally be reached on 7:30AM - 4:00 PM.

19. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Rodriguez can be reached on (571) 272-3753. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

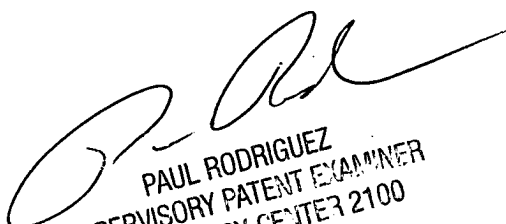
20. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JP 1/22/08


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